

An Employer's Guide to Hiring Retired Government Employees

Public Employees' Retirement System (PERS) • Teachers' Pension and Annuity Fund (TPAF) •
Police and Firemen's Retirement System (PFRS) • Alternate Benefit Program (ABP)

Many employers, including a number of public employers, have come to rely on the experience of retired persons to augment their workforce. If you, as a public employer in New Jersey, are considering hiring a person who is a retired government employee, there are three important questions you must answer first.

Question #1

Is the position you are trying to fill covered under one of the State-administered retirement systems? (PERS, TPAF, PFRS, SPRS, ABP)

If the answer is "no," then you may hire the person without consideration for an existing retirement allowance.

In all probability, the answer to this question is, "yes." If so, then proceed to question #2.

Question #2

Is the prospective employee retired from the same retirement system that covers the position you are trying to fill?

If the answer is "no," and this person is receiving a retirement allowance from another State-administered pension system, then you may hire the retiree without being required to enroll him or her. (See the PERS and PFRS discussions on the following pages for exceptions to this general rule.)

- A person who retires and is receiving a pension from any pension fund established under the laws of New Jersey may accept a position covered by a different system and receive full salary and benefits from the second position, but may not join the new system. Further, the retiree will continue to receive his or her retirement allowance based on the former pension membership.
- If the employee is receiving a pension from a

pension fund not established under the laws of New Jersey, he or she must be enrolled in the pension system that covers the position you are filling as soon as the eligibility requirements are met.

If the answer is "yes," then the employee may have to be enrolled in the pension system. The primary consequence of reenrolling in a State-administered pension system is the cancellation of the existing monthly retirement benefit, including any survivor benefits that may be payable upon the death of the member. A member of a NJ State-administered retirement system is considered retired when a retirement is "due and payable," 30 days after the retirement date or 30 days after the Board of Trustees approves a pension, whichever date is later. *If a member returns to employment covered by the same retirement system before a pension is "due and payable," the member will not be retired and will remain an active member in all respects.*

If the member's retirement has become "due and payable," the member would have to be reenrolled in the pension system if the reenrollment conditions described later in this fact sheet are met.

If reenrollment is required, a new membership account is opened, contributions are certified to be deducted from the member's salary, and only active member death benefits are payable to a surviving beneficiary if the member dies before retiring again. **Further, the member is responsible for the repayment of all retirement checks paid after the effective date of reenrollment.**

Please note that different rules apply to retirees who are on a disability retirement. See *Hiring Disability Retirees* on page 4 for more information.

The employer is responsible for enrolling eligible employees in a timely manner. If a retired member must enroll in a new membership, the employer should have the employee complete an *Enrollment Application* and affix the words, "Return from Retirement" at the top, and wait for a *Certification of Payroll Deductions* to be sent from the Division.

Question #3

How do you transition one of your own employees into retirement and then back to employment at your own place of employment?

If you plan on hiring an employee into a position covered by the **same pension system** from which he or she will be retiring, then the discussion of a "Yes" answer to question #2 applies.

If you plan on hiring an employee into a position covered by a **different pension system** from which he or she will be retiring, then particular attention must be paid to the transition. First, the employee must terminate employment from the original position prior to the retirement date in order to collect a retirement allowance. This entails terminating the relationship with the employer by surrendering all tenure and longevity rights and arranging for the payment for any unused time in accordance with applicable labor contracts. Once this is done, the employee may be rehired as a new employee into the position covered by the other pension system. There does not have to be a break in pay status. As long as the individual **substantially complies** with the requirements of the retirement process before starting the second job, then the employee does not have to be enrolled in the pension system on the basis of the work after retirement. "Substantially complies" means that the employee files for retirement with the Division of Pensions and Benefits and terminates employment before the retirement date as described above.

If this does not occur, then the individual has not retired and a retirement cannot become "due and payable." Additionally, if the employment in the new position begins before the termination of employment in the prior position, then the employee must be enrolled in the second retirement system and is

considered a Dual Member (membership in two different retirement systems) by the Division of Pensions and Benefits.

CONDITIONS FOR REENROLLMENT

The conditions that require reenrollment are dependent upon the pension fund involved and are outlined in the sections that follow. Exceptions to the normal enrollment requirements are also discussed.

Public Employees' Retirement System (PERS)

Effective January 1, 2002, a PERS retiree may earn up to \$15,000 per year from PERS-covered employment without becoming eligible for reenrollment. The \$15,000 limit is an aggregate of all public employment from PERS-covered positions. If a PERS retiree is hired in a PERS-eligible position at an annual salary of more than \$15,000, or is employed in more than one PERS-eligible position with combined salaries of more than \$15,000, that retiree's pension is canceled and the retiree is reenrolled as a new member in the PERS.

For example, a PERS retiree earns \$8,000 from one employer and accepts a PERS-covered position paying \$8,000 from another employer. This person must be enrolled again in the PERS through both employers because the aggregate annual salary will exceed \$15,000.

The responsibility for keeping track of earnings from multiple PERS-covered positions is upon the member, who would inform his or her employers in the event the \$15,000 limit is exceeded.

Employees paid hourly should be enrolled as soon as the compensation exceeds \$15,000 in a calendar year.

One exception to reenrollment is for a PERS retiree who accepts a **teaching position in higher education** (college or university level). This person may continue to receive the PERS pension, accept the full salary (even if over \$15,000), and not be required to reenroll.

A second exception is for a PERS retiree who becomes employed by the NJ Department of Education **in a position of critical need** as deter-

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mined by the Commissioner of Education, or becomes employed by a board of education **in a position of critical need** as determined by the superintendent of the district on a contractual basis for a term of not more than one year. A retiree employed by a board of education may renew the employment contract for one additional year for a maximum total period of employment with one school district of two years. However, this exception does not apply if the PERS retiree returns to a position with the same employer from which he or she retired, i.e., Department of Education or a specific board of education, within 120 days from the date of retirement.

PERS Members in an ABP Position — If a PERS member retires from a non-teaching ABP eligible position, the member must be reenrolled in the PERS if he or she returns to employment in that same position.

For more information about PERS reenrollment, see Fact Sheet #21, *Employment After Retirement - PERS*.

Police and Firemen's Retirement System (PFRS)

It is very rare for a retiree from one of the State-administered retirement systems to be appointed to a position covered by the Police and Firemen's Retirement System. However, if a retired member of the PFRS is appointed to another PFRS-eligible position, the retiree must be reenrolled in the PFRS, which will cancel the existing retirement.

This rule holds true for civilian positions within law enforcement units or firefighting units with administrative and/or supervisory duties over police officers and/or firefighters, e.g., Fire Director or Public Safety Director. If a PFRS retiree is appointed to this type of position less than six months after retirement, that retiree must suspend his or her retirement allowance and reenroll in the PFRS. If more than six months have passed since retirement, the retiree may take the position without affecting his or her retirement, with one exception. If the individual held

that position as a member of the PFRS before retirement, reenrollment will be required.

If a PFRS retiree who has elected a Deferred Retirement (payable when the retiree turns 55) returns to PFRS eligible employment before age 55, the member will need to be reenrolled.

For more information about PFRS reenrollment, see Fact Sheet #29, *Employment After Retirement - PFRS*.

Teachers' Pension and Annuity Fund (TPAF)

In most cases, if a TPAF retiree returns to a TPAF-covered position, the retirement is canceled and the retiree must be reenrolled in the TPAF. There are, however, some exceptions to this.

A TPAF retiree may serve in an **interim capacity**, with one employer, for an aggregate maximum of six months. Interim service may be extended an additional six months only with prior approval by the TPAF Board of Trustees. If the retiree works longer than six-months, reenrollment is required on the first day of the seventh month.

In addition, State law allows TPAF retirees who are certificated superintendents and certificated administrators to serve without requiring cancellation of the pension and reenrollment in the TPAF if employed by the Department of Education **in a position of critical need** as determined by the Commissioner of Education or by a board of education on a contractual basis for a term of not more than one year. The retiree employed by a board of education may renew the employment contract for one additional year for a maximum total period of employment with one school district of two years. In addition, if a TPAF retiree returns to a position with the same employer from which he or she retired, a minimum of 120 days must elapse from the date of retirement before accepting the position.

For more information about TPAF reenrollment, see Fact Sheet #28, *"Employment After Retirement - TPAF"*.

Alternate Benefits Program (ABP)

An Alternate Benefits Program retiree who returns to a covered position after retirement may not reenroll in the ABP. The retired ABP member who becomes a faculty member at a State College may, however, contribute to Additional Contributions Tax-Sheltered (ACTS) if desired.

HIRING DISABILITY RETIREES

A retiree who is receiving a disability retirement from any State-administered retirement system must make a written request to the Division of Pensions and Benefits before returning to active service in a position covered by that same retirement system (regardless of salary). A physician's report must be submitted to the Division certifying that the retiree is no longer disabled and can return to employment. The retiree must be examined by a physician appointed by the retirement system's Board of Trustees, and the Board must approve the return to active service.

**STATE HEALTH BENEFITS PROGRAM
RETIRED GROUP COVERAGE**

Returning to public employment in New Jersey may affect a retiree's eligibility to continue coverage under the State Health Benefits Program (SHBP). If a retiree's retirement allowance is suspended because the member returns to work and is reenrolled in the pension fund from which the member originally retired, SHBP retired group coverage is also suspended for the duration of the second membership.

Should the retiree die as an active employee, the retiree's spouse may not qualify for lifetime retired group coverage but may only be eligible to pay for coverage under federal COBRA guidelines from the active employer for 36 months. This is a very important factor to consider before a retiree faces reenrollment in a State-administered retirement system.

Upon subsequent retirement:

- If the reenrolled member is eligible for SHBP coverage based on the second membership, the

Division will send the member an offering letter and *SHBP Retired Status Application* (for SHBP enrollment). The retiree must complete and return the application. If the retiree's previous retired group coverage was State- or employer-paid, a note should be attached to the application identifying the prior retirement account.

- If the reenrolled member is not eligible for SHBP coverage based retirement from the second membership, the member must write to the Division to request that SHBP retired coverage be reinstated based upon the previous retirement.

Returning to a position not covered by the same pension fund from which the retiree originally retired will not affect eligibility for retired group coverage under the SHBP (see exception for Chapter 330 enrollees, below). Maintaining SHBP retired group coverage also does not affect the retiree's eligibility for active group health coverage associated with the new employment.

Chapter 330 Enrollees — Chapter 330, P.L. 1997, provides SHBP coverage for certain retired police officers, law enforcement officers, and firefighters whose employers do not pay for health benefits for their retirees. Under this law, the State of New Jersey pays a portion of the retiree's SHBP premiums with the retiree paying the remainder.

If a retiree participates in the SHBP due to the provisions of Chapter 330 and obtains health benefits coverage from any other employment (including employment in the private sector), that retiree is no longer eligible for Chapter 330 coverage while the other coverage is in effect. This is true even if the pension benefit is not affected by the return to employment.

In addition, should the retiree die while other health benefits coverage is in effect, the retiree's spouse may not qualify for lifetime retired group coverage* but may only be eligible to pay for

*Please note that a surviving spouse must pay for the full cost of continuing Chapter 330 coverage. The State does not pay towards the coverage of a survivor of a Chapter 330 retiree.

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coverage under federal COBRA guidelines from the active employer for 36 months.

If a Chapter 330 enrollee becomes eligible for health benefits coverage due to employment, written notification of active coverage should be sent by the retiree to the Division of Pensions and Benefits. When coverage from other employment ends, the retiree is eligible to reenroll in Chapter 330 coverage as long as the Division is notified of the loss of other coverage within 60 days. If notification is not sent to the Division within this time frame, the retiree cannot reenroll for coverage until he or she becomes eligible for Medicare coverage.

SUPPLEMENTAL RETIREMENT ACCOUNTS

Many employers offer a wide range of supplemental retirement savings accounts for their employees. IRC 457 and 403(b) plans are the most commonly offered by public employers. Usually, a retiree who accepts employment may participate in a supplemental retirement account, even if he or she is retired and taking distribution from an earlier account. Check with your supplemental retirement account administrator to determine if this would be possible under the terms of your plan.

This fact sheet has been produced and distributed by:

**New Jersey Division of Pensions and Benefits • PO Box 295 • Trenton, New Jersey 08625-0295
(609) 292-7524 • TDD for the hearing impaired (609) 292-7718**

URL: <http://www.state.nj.us/treasury/pensions> • E-mail: pensions.nj@treas.state.nj.us

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